

**Effective 5/12/2015**

**10-9a-103 Definitions.**

As used in this chapter:

- (1) "Affected entity" means a county, municipality, local district, special service district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified public utility, property owner, property owners association, or the Utah Department of Transportation, if:
  - (a) the entity's services or facilities are likely to require expansion or significant modification because of an intended use of land;
  - (b) the entity has filed with the municipality a copy of the entity's general or long-range plan; or
  - (c) the entity has filed with the municipality a request for notice during the same calendar year and before the municipality provides notice to an affected entity in compliance with a requirement imposed under this chapter.
- (2) "Appeal authority" means the person, board, commission, agency, or other body designated by ordinance to decide an appeal of a decision of a land use application or a variance.
- (3) "Billboard" means a freestanding ground sign located on industrial, commercial, or residential property if the sign is designed or intended to direct attention to a business, product, or service that is not sold, offered, or existing on the property where the sign is located.
- (4)
  - (a) "Charter school" means:
    - (i) an operating charter school;
    - (ii) a charter school applicant that has its application approved by a charter school authorizer in accordance with Title 53A, Chapter 1a, Part 5, The Utah Charter Schools Act; or
    - (iii) an entity that is working on behalf of a charter school or approved charter applicant to develop or construct a charter school building.
  - (b) "Charter school" does not include a therapeutic school.
- (5) "Conditional use" means a land use that, because of its unique characteristics or potential impact on the municipality, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts.
- (6) "Constitutional taking" means a governmental action that results in a taking of private property so that compensation to the owner of the property is required by the:
  - (a) Fifth or Fourteenth Amendment of the Constitution of the United States; or
  - (b) Utah Constitution Article I, Section 22.
- (7) "Culinary water authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of the culinary water system and sources for the subject property.
- (8) "Development activity" means:
  - (a) any construction or expansion of a building, structure, or use that creates additional demand and need for public facilities;
  - (b) any change in use of a building or structure that creates additional demand and need for public facilities; or
  - (c) any change in the use of land that creates additional demand and need for public facilities.
- (9)
  - (a) "Disability" means a physical or mental impairment that substantially limits one or more of a person's major life activities, including a person having a record of such an impairment or being regarded as having such an impairment.

- (b) "Disability" does not include current illegal use of, or addiction to, any federally controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. 802.
- (10) "Educational facility":
  - (a) means:
    - (i) a school district's building at which pupils assemble to receive instruction in a program for any combination of grades from preschool through grade 12, including kindergarten and a program for children with disabilities;
    - (ii) a structure or facility:
      - (A) located on the same property as a building described in Subsection (10)(a)(i); and
      - (B) used in support of the use of that building; and
    - (iii) a building to provide office and related space to a school district's administrative personnel; and
  - (b) does not include:
    - (i) land or a structure, including land or a structure for inventory storage, equipment storage, food processing or preparing, vehicle storage or maintenance, or similar use that is:
      - (A) not located on the same property as a building described in Subsection (10)(a)(i); and
      - (B) used in support of the purposes of a building described in Subsection (10)(a)(i); or
    - (ii) a therapeutic school.
- (11) "Fire authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of fire protection and suppression services for the subject property.
- (12) "Flood plain" means land that:
  - (a) is within the 100-year flood plain designated by the Federal Emergency Management Agency; or
  - (b) has not been studied or designated by the Federal Emergency Management Agency but presents a likelihood of experiencing chronic flooding or a catastrophic flood event because the land has characteristics that are similar to those of a 100-year flood plain designated by the Federal Emergency Management Agency.
- (13) "General plan" means a document that a municipality adopts that sets forth general guidelines for proposed future development of the land within the municipality.
- (14) "Geologic hazard" means:
  - (a) a surface fault rupture;
  - (b) shallow groundwater;
  - (c) liquefaction;
  - (d) a landslide;
  - (e) a debris flow;
  - (f) unstable soil;
  - (g) a rock fall; or
  - (h) any other geologic condition that presents a risk:
    - (i) to life;
    - (ii) of substantial loss of real property; or
    - (iii) of substantial damage to real property.
- (15) "Hookup fee" means a fee for the installation and inspection of any pipe, line, meter, or appurtenance that connects to a municipal water, sewer, storm water, power, or other utility system.
- (16) "Identical plans" means building plans submitted to a municipality that:
  - (a) are clearly marked as "identical plans";
  - (b) are substantially identical to building plans that were previously submitted to and reviewed and approved by the municipality; and

- (c) describe a building that:
  - (i) is located on land zoned the same as the land on which the building described in the previously approved plans is located;
  - (ii) is subject to the same geological and meteorological conditions and the same law as the building described in the previously approved plans;
  - (iii) has a floor plan identical to the building plan previously submitted to and reviewed and approved by the municipality; and
  - (iv) does not require any additional engineering or analysis.
- (17) "Impact fee" means a payment of money imposed under Title 11, Chapter 36a, Impact Fees Act.
- (18) "Improvement completion assurance" means a surety bond, letter of credit, financial institution bond, cash, assignment of rights, lien, or other equivalent security required by a municipality to guaranty the proper completion of landscaping or an infrastructure improvement required as a condition precedent to:
  - (a) recording a subdivision plat; or
  - (b) development of a commercial, industrial, mixed use, or multifamily project.
- (19) "Improvement warranty" means an applicant's unconditional warranty that the applicant's installed and accepted landscaping or infrastructure improvement:
  - (a) complies with the municipality's written standards for design, materials, and workmanship; and
  - (b) will not fail in any material respect, as a result of poor workmanship or materials, within the improvement warranty period.
- (20) "Improvement warranty period" means a period:
  - (a) no later than one year after a municipality's acceptance of required landscaping; or
  - (b) no later than one year after a municipality's acceptance of required infrastructure, unless the municipality:
    - (i) determines for good cause that a one-year period would be inadequate to protect the public health, safety, and welfare; and
    - (ii) has substantial evidence, on record:
      - (A) of prior poor performance by the applicant; or
      - (B) that the area upon which the infrastructure will be constructed contains suspect soil and the municipality has not otherwise required the applicant to mitigate the suspect soil.
- (21) "Infrastructure improvement" means permanent infrastructure that an applicant must install:
  - (a) pursuant to published installation and inspection specifications for public improvements; and
  - (b) as a condition of:
    - (i) recording a subdivision plat; or
    - (ii) development of a commercial, industrial, mixed use, condominium, or multifamily project.
- (22) "Internal lot restriction" means a platted note, platted demarcation, or platted designation that:
  - (a) runs with the land; and
  - (b)
    - (i) creates a restriction that is enclosed within the perimeter of a lot described on the plat; or
    - (ii) designates a development condition that is enclosed within the perimeter of a lot described on the plat.
- (23) "Land use application" means an application required by a municipality's land use ordinance.
- (24) "Land use authority" means:
  - (a) a person, board, commission, agency, or body, including the local legislative body, designated by the local legislative body to act upon a land use application; or

- (b) if the local legislative body has not designated a person, board, commission, agency, or body, the local legislative body.
- (25) "Land use ordinance" means a planning, zoning, development, or subdivision ordinance of the municipality, but does not include the general plan.
- (26) "Land use permit" means a permit issued by a land use authority.
- (27) "Legislative body" means the municipal council.
- (28) "Local district" means an entity under Title 17B, Limited Purpose Local Government Entities - Local Districts, and any other governmental or quasi-governmental entity that is not a county, municipality, school district, or the state.
- (29) "Lot line adjustment" means the relocation of the property boundary line in a subdivision between two adjoining lots with the consent of the owners of record.
- (30) "Moderate income housing" means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income for households of the same size in the county in which the city is located.
- (31) "Nominal fee" means a fee that reasonably reimburses a municipality only for time spent and expenses incurred in:
  - (a) verifying that building plans are identical plans; and
  - (b) reviewing and approving those minor aspects of identical plans that differ from the previously reviewed and approved building plans.
- (32) "Noncomplying structure" means a structure that:
  - (a) legally existed before its current land use designation; and
  - (b) because of one or more subsequent land use ordinance changes, does not conform to the setback, height restrictions, or other regulations, excluding those regulations, which govern the use of land.
- (33) "Nonconforming use" means a use of land that:
  - (a) legally existed before its current land use designation;
  - (b) has been maintained continuously since the time the land use ordinance governing the land changed; and
  - (c) because of one or more subsequent land use ordinance changes, does not conform to the regulations that now govern the use of the land.
- (34) "Official map" means a map drawn by municipal authorities and recorded in a county recorder's office that:
  - (a) shows actual and proposed rights-of-way, centerline alignments, and setbacks for highways and other transportation facilities;
  - (b) provides a basis for restricting development in designated rights-of-way or between designated setbacks to allow the government authorities time to purchase or otherwise reserve the land; and
  - (c) has been adopted as an element of the municipality's general plan.
- (35) "Parcel boundary adjustment" means a recorded agreement between owners of adjoining properties adjusting their mutual boundary if:
  - (a) no additional parcel is created; and
  - (b) each property identified in the agreement is unsubdivided land, including a remainder of subdivided land.
- (36) "Person" means an individual, corporation, partnership, organization, association, trust, governmental agency, or any other legal entity.
- (37) "Plan for moderate income housing" means a written document adopted by a city legislative body that includes:
  - (a) an estimate of the existing supply of moderate income housing located within the city;

- (b) an estimate of the need for moderate income housing in the city for the next five years as revised biennially;
  - (c) a survey of total residential land use;
  - (d) an evaluation of how existing land uses and zones affect opportunities for moderate income housing; and
  - (e) a description of the city's program to encourage an adequate supply of moderate income housing.
- (38) "Plat" means a map or other graphical representation of lands being laid out and prepared in accordance with Section 10-9a-603, 17-23-17, or 57-8-13.
- (39) "Potential geologic hazard area" means an area that:
- (a) is designated by a Utah Geological Survey map, county geologist map, or other relevant map or report as needing further study to determine the area's potential for geologic hazard; or
  - (b) has not been studied by the Utah Geological Survey or a county geologist but presents the potential of geologic hazard because the area has characteristics similar to those of a designated geologic hazard area.
- (40) "Public agency" means:
- (a) the federal government;
  - (b) the state;
  - (c) a county, municipality, school district, local district, special service district, or other political subdivision of the state; or
  - (d) a charter school.
- (41) "Public hearing" means a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.
- (42) "Public meeting" means a meeting that is required to be open to the public under Title 52, Chapter 4, Open and Public Meetings Act.
- (43) "Receiving zone" means an area of a municipality that the municipality designates, by ordinance, as an area in which an owner of land may receive a transferable development right.
- (44) "Record of survey map" means a map of a survey of land prepared in accordance with Section 17-23-17.
- (45) "Residential facility for persons with a disability" means a residence:
- (a) in which more than one person with a disability resides; and
  - (b)
    - (i) which is licensed or certified by the Department of Human Services under Title 62A, Chapter 2, Licensure of Programs and Facilities; or
    - (ii) which is licensed or certified by the Department of Health under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act.
- (46) "Rules of order and procedure" means a set of rules that govern and prescribe in a public meeting:
- (a) parliamentary order and procedure;
  - (b) ethical behavior; and
  - (c) civil discourse.
- (47) "Sanitary sewer authority" means the department, agency, or public entity with responsibility to review and approve the feasibility of sanitary sewer services or onsite wastewater systems.
- (48) "Sending zone" means an area of a municipality that the municipality designates, by ordinance, as an area from which an owner of land may transfer a transferable development right.
- (49) "Specified public agency" means:
- (a) the state;

- (b) a school district; or
  - (c) a charter school.
- (50) "Specified public utility" means an electrical corporation, gas corporation, or telephone corporation, as those terms are defined in Section 54-2-1.
- (51) "State" includes any department, division, or agency of the state.
- (52) "Street" means a public right-of-way, including a highway, avenue, boulevard, parkway, road, lane, walk, alley, viaduct, subway, tunnel, bridge, public easement, or other way.
- (53)
- (a) "Subdivision" means any land that is divided, resubdivided or proposed to be divided into two or more lots, parcels, sites, units, plots, or other division of land for the purpose, whether immediate or future, for offer, sale, lease, or development either on the installment plan or upon any and all other plans, terms, and conditions.
  - (b) "Subdivision" includes:
    - (i) the division or development of land whether by deed, metes and bounds description, devise and testacy, map, plat, or other recorded instrument; and
    - (ii) except as provided in Subsection (53)(c), divisions of land for residential and nonresidential uses, including land used or to be used for commercial, agricultural, and industrial purposes.
  - (c) "Subdivision" does not include:
    - (i) a bona fide division or partition of agricultural land for the purpose of joining one of the resulting separate parcels to a contiguous parcel of unsubdivided agricultural land, if neither the resulting combined parcel nor the parcel remaining from the division or partition violates an applicable land use ordinance;
    - (ii) a recorded agreement between owners of adjoining unsubdivided properties adjusting their mutual boundary if:
      - (A) no new lot is created; and
      - (B) the adjustment does not violate applicable land use ordinances;
    - (iii) a recorded document, executed by the owner of record:
      - (A) revising the legal description of more than one contiguous unsubdivided parcel of property into one legal description encompassing all such parcels of property; or
      - (B) joining a subdivided parcel of property to another parcel of property that has not been subdivided, if the joinder does not violate applicable land use ordinances;
    - (iv) a recorded agreement between owners of adjoining subdivided properties adjusting their mutual boundary if:
      - (A) no new dwelling lot or housing unit will result from the adjustment; and
      - (B) the adjustment will not violate any applicable land use ordinance;
    - (v) a bona fide division or partition of land by deed or other instrument where the land use authority expressly approves in writing the division in anticipation of further land use approvals on the parcel or parcels; or
    - (vi) a parcel boundary adjustment.
  - (d) The joining of a subdivided parcel of property to another parcel of property that has not been subdivided does not constitute a subdivision under this Subsection (53) as to the unsubdivided parcel of property or subject the unsubdivided parcel to the municipality's subdivision ordinance.
- (54) "Suspect soil" means soil that has:
- (a) a high susceptibility for volumetric change, typically clay rich, having more than a 3% swell potential;
  - (b) bedrock units with high shrink or swell susceptibility; or

- (c) gypsiferous silt and clay, gypsum, or bedrock units containing abundant gypsum commonly associated with dissolution and collapse features.
- (55) "Therapeutic school" means a residential group living facility:
  - (a) for four or more individuals who are not related to:
    - (i) the owner of the facility; or
    - (ii) the primary service provider of the facility;
  - (b) that serves students who have a history of failing to function:
    - (i) at home;
    - (ii) in a public school; or
    - (iii) in a nonresidential private school; and
  - (c) that offers:
    - (i) room and board; and
    - (ii) an academic education integrated with:
      - (A) specialized structure and supervision; or
      - (B) services or treatment related to a disability, an emotional development, a behavioral development, a familial development, or a social development.
- (56) "Transferable development right" means a right to develop and use land that originates by an ordinance that authorizes a land owner in a designated sending zone to transfer land use rights from a designated sending zone to a designated receiving zone.
- (57) "Unincorporated" means the area outside of the incorporated area of a city or town.
- (58) "Water interest" means any right to the beneficial use of water, including:
  - (a) each of the rights listed in Section 73-1-11; and
  - (b) an ownership interest in the right to the beneficial use of water represented by:
    - (i) a contract; or
    - (ii) a share in a water company, as defined in Section 73-3-3.5.
- (59) "Zoning map" means a map, adopted as part of a land use ordinance, that depicts land use zones, overlays, or districts.

Amended by Chapter 327, 2015 General Session